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FILED
HARRISBURG, PA

JAN 22 2002

MARY E. D'ANDREA, CLERK
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL A. SHAFFER,

Plaintiff,

v.

SUSAN GRAYBILL AS AN
INDIVIDUAL AND AS
ADMINISTRATRIX OF THE ESTATE
OF DENNIS M. GRAYBILL,
MINUTEMAN PRESS
INTERNATIONAL, INC.,
and ROBERT EMMETT,

Defendants.

CIVIL ACTION NO. 01-CV-1065
Judge Sylvia H. Rambo

**AMENDMENT TO FOOTNOTE 1 OF DEFENDANTS MINUTEMAN PRESS
INTERNATIONAL, INC.'S AND ROBERT EMMETT'S
ANSWER TO PLAINTIFF'S COMPLAINT
AND PLAINTIFF'S FIRST AMENDED COMPLAINT WITH
AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

For purposes of clarity and specificity of the record, Footnote 1 to Defendants' Answer to Plaintiff's Complaint and Plaintiff's First Amended Complaint with Affirmative Defenses and Counterclaim is amended as follows (the amendment highlighted for the Court's convenience):

This filing and any other activities undertaken by Answering Defendants and their counsel in this Court prior to the United States District Court for the Middle District of Pennsylvania's adjudication of Answering Defendants' pending Motion for Reconsideration to dismiss Plaintiff's Complaint and First Amended Complaint and/or to **stay Plaintiff's claims pending**

arbitration pursuant to 9 U.S.C. §3 of the Federal Arbitration Act (or any appeal) are done involuntarily to protect Answering Defendants' interests and are without waiver of any Answering Defendants' right to **seek** arbitration of **the** claims and have this action stayed and/or dismissed pursuant to the terms of the Franchise Agreement and/or the Federal Arbitration Act. Given Answering Defendants' filing of the Motion for Reconsideration (and any appeal), any injuries or damages suffered by Plaintiff as a consequence of his continued prosecution of this action in contravention of his agreement to arbitrate are self-imposed. Plaintiff is not free to and should not rely upon Answering Defendants' and their counsel's limited and involuntary activities in this Court as evidencing a waiver of Answering Defendants' right to **seek** arbitration. Any purported reliance by Plaintiff upon Answering Defendants' and their counsel's limited and involuntary activities in this Court as evidencing a waiver of Answering Defendants' right to **seek** arbitration would be completely misplaced and unreasonable.

Respectfully submitted:



Harris J. Chernow (PA I.D. No. 52577)

John J. Jacko, III (PA I.D. No. 67477)

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Attorneys for Plaintiff Minuteman Press
International, Inc. and Robert Emmett

Dated: January 18, 2002

CERTIFICATE OF SERVICE

I, Harris J. Chernow, hereby certify that on this 18th day of January 2002, I caused a copy of the foregoing Amendment to Footnote 1 of Defendants Minuteman Press International, Inc.'s and Robert Emmett's Answer to Plaintiff's Complaint and First Amended Complaint Together With Affirmative Defenses and Counterclaim to be served via First-Class, U.S. Mail, postage prepaid, upon the following counsel of record:

Robert J. White, Esquire
P.O. Box 3005
York, PA 17402

and

Marvin Beshore, Esquire
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and

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Harris J. Chernow